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Remarks

Claims 1, 3-10, 12-14, 16 and 18-20 are pending in the application.

Claims 1, 3-10, and 12-14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Maddocks U.S. Patent 6,483,616 B1, hereinafter "Maddocks".

Claims 16 and 18-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Czarnocha U.S. Patent 6,504,630 B1, hereinafter "Czarnocha", in view of U.S. Rowley U.S. Patent 4,833,668, hereinafter "Rowley".

Each of the various rejections is overcome by various amendments and arguments that are presented.

Entry of this Amendment is proper under 37 CFR § 1.116 since the amendment: (a) places the application in condition for allowance for the reasons discussed herein; (b) does not raise any new issue requiring further search and/or consideration since the amendments amplify issues previously discussed throughout prosecution; (c) satisfies a requirement of form asserted in the previous Office Action; (d) does not present any additional claims without canceling a corresponding number of finally rejected claims; or (e) places the application in better form for appeal, should an appeal be necessary. The amendment is necessary and was not earlier presented because it is made in response to arguments raised in the final rejection. Entry of the amendment is thus respectfully requested.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel

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and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewriting to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

#### **Statement of Common Ownership of Application and Reference**

Applicant represents that the present invention and Czarnocha (U.S. patent 6,504,630) were, at the time the present invention was made, owned by, or subject to an obligation of assignment to, Lucent Technologies Inc.

#### **Rejections Under 35 U.S.C. §103(a)**

##### **Claims 1, 3-10 and 12-14**

Claims 1, 3-10, and 12-14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Maddocks U.S. Patent 6,483,616 B1, hereinafter "Maddocks."

The rejection is traversed because Maddocks fails to teach or suggest Applicants' invention as a whole.

The Office Action relied on Maddocks, col. 3, lines 44-49, as teaching that when only one fiber is used for the system, the counter-propagating supervisory channel is propagating in the same optical fiber path as a data signal.

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Applicants submit, however, that even in the scenario in which a single fiber is used for bidirectional traffic, Maddocks' method still does not teach or suggest Applicants' invention in claims 1 or 10.

Specifically, Maddocks teaches, in column 3, lines 43-48, that in a bi-directional single fiber system, due to reflection of a transmitted signal back into a receiver unit, the receive circuit would continue to receive a signal even in the event of a fiber break. In order to discern the fiber break condition, Maddocks' system would require a modification. Thus, Maddocks teaches, in col. 3, lines 49-57, that an identifier signal, which uniquely identifies a particular transmitter, needs to be transmitted over the supervisory channel. In the event of a fiber break, "receipt of an identifier signal which differs from that expected under normal operation will cause the laser amplifiers to be shut down" (see col. 3, lines 52-54, emphasis added).

That is, Maddocks relies on a detection of an identifier signal in the supervisory channel -- specifically, one that is reflected back from a fiber cut, as an indicator of a fiber break. Unlike Applicants' invention, Maddocks does not rely on detecting a signal loss (of supervisory or data signal) to trigger the power reduction steps.

Thus, even if Maddocks' modified single fiber bidirectional traffic system contains a supervisory signal that is counter-propagating with a data signal, there is no teaching or suggestion in Maddocks of "reducing the power level of an optical data signal propagating in an optical fiber path in response to a loss of a counter-propagating supervisory signal in the optical fiber path; reducing counter-propagating optical power in response to a loss of the optical data signal; responsive to the loss of the optical data signal, reducing counter-propagating optical signal power output from at least one additional network element by a predetermined amount," as provided in claim 1.

Therefore, Applicants' claim 1 is patentable over Maddocks.

Independent claim 10 recites features similar to those of claim 1 that are not suggested or taught by Maddocks. For example, Maddocks does not teach or suggest a method that includes reducing power outputs from certain network elements in response to a loss of supervisory signal or optical data signal, as provided in features b), c), d) and e) of independent claim 10.

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Therefore, Applicants submit that independent claims 1 and 10 fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder.

Claims 3-9 and 12-14 depend, either directly or indirectly, from independent claims 1 and 10 and recite additional features thereof. As such, and at least for the same reasons set forth above with respect to Applicants' independent claims 1 and 10, Applicants submit that these claims also fully satisfy the requirements of under 35 U.S.C. §103 and are patentable thereunder.

Therefore, claims 1, 3-10 and 12-14 are allowable over Maddocks under 35 U.S.C. §103. As such, Applicants respectfully request that the rejection be withdrawn.

#### Claims 16 and 18-20

Claims 16 and 18-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Czarnocha in view of Rowley.

Applicants submit that, under 35 U.S.C. §103(c)(1), Czarnocha should be disqualified as prior art based on common ownership of Czarnocha and the present application as set forth in the Statement of Common Ownership above.

Specifically, Czarnocha is a patent application filed on December 4, 1998, and issued on January 7, 2003. Since the present application was filed on March 7, 2002, prior to the issue date of Czarnocha, Czarnocha would qualify only as a §102(e)/§103(a) reference. Under 35 U.S.C. §103(c)(1), Czarnocha should be disqualified as a 103 reference against the present invention because of common ownership.

Since the §103(a) rejection of claims 16 and 18-20 is based on a combination involving Czarnocha, Applicants request that the rejection be withdrawn.

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Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully,

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